

and the original insertion canceled, so that no interlineations or deletions shall appear in the clause as finally presented. Matter canceled by amendment can be reinstated only by a subsequent amendment presenting the canceled matter as a new insertion.

**§ 1.125 Substitute specification.**

If the number or nature of the amendments shall render it difficult to consider the case, or to arrange the papers for printing or copying, the examiner may require the entire specification, including the claims, or any part thereof, to be rewritten. A substitute specification may not be accepted unless it has been required by the examiner or unless it is clear to the examiner that acceptance of a substitute specification would facilitate processing of the application. Any substitute specification filed must be accompanied by a statement that the substitute specification includes no new matter. Such statement must be a verified statement if made by a person not registered to practice before the Office.

(35 U.S.C. 6, Pub. L. 97-247)

[48 FR 2712, Jan. 20, 1983]

**§ 1.126 Numbering of claims.**

The original numbering of the claims must be preserved throughout the prosecution. When claims are canceled, the remaining claims must not be renumbered. When claims are added, except when presented in accordance with § 1.121(b), they must be numbered by the applicant consecutively beginning with the number next following the highest numbered claim previously presented (whether entered or not). When the application is ready for allowance, the examiner, if necessary, will renumber the claims consecutively in the order in which they appear or in such order as may have been requested by applicant.

[32 FR 13583, Sept. 28, 1967]

**§ 1.127 Petition from refusal to admit amendment.**

From the refusal of the primary examiner to admit an amendment, in whole or in part, a petition will lie to the Commissioner under § 1.181.

TRANSITIONAL PROVISIONS

**§ 1.129 Transitional procedures for limited examination after final rejection and restriction practice.**

(a) An applicant in an application, other than for reissue or a design patent, that has been pending for at least two years as of June 8, 1995, taking into account any reference made in such application to any earlier filed application under 35 U.S.C. 120, 121 and 365(c), is entitled to have a first submission entered and considered on the merits after final rejection under the following circumstances: The Office will consider such a submission, if the first submission and the fee set forth in § 1.17(r) are filed prior to the filing of an appeal brief and prior to abandonment of the application. The finality of the final rejection is automatically withdrawn upon the timely filing of the submission and payment of the fee set forth in § 1.17(r). If a subsequent final rejection is made in the application, applicant is entitled to have a second submission entered and considered on the merits after the subsequent final rejection under the following circumstances: The Office will consider such a submission, if the second submission and a second fee set forth in § 1.17(r) are filed prior to the filing of an appeal brief and prior to abandonment of the application. The finality of the subsequent final rejection is automatically withdrawn upon the timely filing of the submission and payment of the second fee set forth in § 1.17(r). Any submission filed after a final rejection made in an application subsequent to the fee set forth in § 1.17(r) having been twice paid will be treated as set forth in § 1.116. A submission as used in this paragraph includes, but is not limited to, an information disclosure statement, an amendment to the written description, claims or drawings and a new substantive argument or new evidence in support of patentability.

(b)(1) In an application, other than for reissue or a design patent, that has been pending for at least three years as of June 8, 1995; taking into account any reference made in the application to any earlier filed application under 35 U.S.C. 120, 121, and 365(c), no requirement for restriction or for the filing of